UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,644	05/09/2001	Peter J. Neumayer	SMUS.0008	3598

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EXAMINER
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ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sh t with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _25 November 2002_ .

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-13 and 17-25_ is/are pending in the application.

    4a) Of the above claim(s) _14-16_ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-25_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _5/9/01_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

El ction/R strictions

Claims 14-16 are withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a nonelected invention, there being no allowable generic or

linking claim. Election was made **without** traverse in Paper No. 3.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claim 1-13, 17, 20-21, and 24-25 are rejected under 35 U.S.C. 102(e) as

being anticipated by Walker U.S. Patent No. 6,418,415.

Referring to claim 1. Walker discloses an aggregation engine (at least Fig.1,

Central Controller **200**) for use in aggregating demands according to an aggregation

rule comprising:

- A demand processor (at least Fig.1, Central Controller **200**), said demand

    processor being outfitted so as to process demands into groups based upon said

    aggregation rule (at least Abstract, "Groups are preferably formed dynamically in

    accordance with predefined aggregation rules.");

- A group builder, said group builder being outfitted so as to compare incoming demands to existing groups, if one of said demands matches one of said existing groups (at least column 2, line 56 to column 3, line 7), assigning a group ID to said one of said demands that is associated with said one of said existing groups (at least Fig. 9), if said one of said demands does not match any of said existing groups, creating a new group and assigning a new group ID associated with the new group to said one of said demands (at least Fig. 13A, Fig. 13B, and Fig. 13C); and

- A rule engine, said rule engine being outfitted so as to build said aggregation rule according to predetermined parameters (at least Fig. 8).

Referring to claims 2-6. Walker further discloses an aggregation engine:

- Wherein said aggregation rule is a product ID rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];

- Wherein said aggregation rule is a classification-based rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];

- Wherein said aggregation rule supports a UN/SPSC classification [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)];

- Wherein said aggregation rule supports an e-class classification [(Walker U.S.

  Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and

  (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line

  25)]; and

- Wherein said aggregation rule -supports hierarchical classifications [(Walker U.S.

  Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and

  (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line

  25)].

  Referring to claims 7-10. Walker further discloses an aggregation engine

wherein

- Said aggregation engine receives said predetermined parameters from another

  application (at least Fig. 13A, Step **1302**);

- Said another application comprises a demand aggregation application (at least

  Fig. 13B, Step **1326**);

- Said aggregation engine receives said predetermined parameters in an XML-

  based format (at least column 9, lines 57-62); and

- Said aggregation engine converts units of said demands prior to outputting said

  groups to another application (at least column 13, lines 31-49).

  Referring to claim 11. Walker discloses a process of aggregating demands

comprising the steps of:

- Validating incoming data so as to ensure said data is valid (at least column 12,

  line 64 to column 13, line 15);

- Processing said incoming data so as to extract an aggregation rule and at least one demand (at least Fig. 13A, Fig. 13B, and Fig. 13C);

- Processing said aggregation rule so as to apply said aggregation rule against said at least one demand to create at least one group based upon said aggregation rule (at least Fig. 9); and

- Outputting output data indicative of said at least one group (at least Fig. 7).

    Referring to claims 12-13. Walker further discloses a process of aggregating demands:

- Wherein said incoming data is XML based (at least column 9, lines 57-62); and

- Wherein said output data is XML based (at least column 9, lines 57-62).

    Referring to claim 17. Walker discloses a process of creating coalitions of demands comprising the steps of:

- Creating a process ID to identify a process through which said coalitions are to be created (at least Fig. 9, CPO Number **930**);

- Creating groups of demands based upon an application of an aggregation rule (at least Fig.9, CONDITIONS **955**);

- Assigning a unique group ID for each group created and assigning said process ID to said demands (at least Fig. 9, CPO Number **930**);

- Assigning said demands to said coalitions based upon said group IDs (at least Fig. 9, CPO Number **930** and CONDITIONS **955**); and

- Once a predetermined time period has passed, closing said coalitions (at least Fig. 9, AGGREGATE CPO EXPIRATION DATE **950**).

Referring to claim 20. Walker further discloses a process of creating coalitions of demands wherein said aggregation rule is a classification-based rule [(Walker U.S. Patent No. 6,418,415: at least column 6, line 64 to column 7, line 21) and (Walker U.S. Patent No. 6,085,169: at least column 21, line 66 to column 22, line 25)].

Referring to claim 21. Walker further discloses a process of creating coalitions of demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and

- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

Referring to claim 24. Walker discloses a process of aggregating demands according to an aggregation rule comprising the steps of:

- Collecting demands from a plurality of sources; creating groups of demands based upon an application of said aggregation rule (at least Fig. 13A, Fig. 13B, and Fig. 13C);

- Forwarding said demands to a demand aggregation application (at least Fig. 13B, STEP **1326**).

Referring to claim 25. Walker further discloses a process of aggregating demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and

- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18-19 and 22-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Walker U.S. Patent No. 6,418,415 in view of Official Notice.

Referring to claims 18-19. Walker discloses a process according to claim 17 as

indicated supra. Walker further discloses a process of creating coalitions of demands

comprising the step of permitting automatic addition of additional demands to said

coalitions and also permitting coalitions to be automatically closed prior to said

predetermined time period passing (at least Figs. 13A, Figs. 13B, and Figs. 13C).

Walker does not expressly disclose a process of creating coalitions of demands

comprising the step of permitting manual addition of additional demands to said

coalitions and also permitting coalitions to be manually closed prior to said

predetermined time period passing. Examiner takes Official Notice that the manual

limitation present in the immediate application does not act to patentability distinguish

the claimed invention. It would have been obvious to a person of ordinary skill in the art

at the time of the invention to permit the manual limitation in lieu of Walker's automatic

limitation, because the manual limitation is merely a step backwards in the Walker's

technology. It has generally been recognized that merely providing an automatic

(manual) means to replace a manual (automatic) activity which accomplishes the same

result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120

USPQ 193, 194 (CCPA 1958).

Referring to claim 22. Walker discloses a process of grouping demands

automatically input into a system by a user into coalitions of demands comprising the

steps of:

- Inputting demands into a demand aggregation application (at least Fig. 13A, Step
  1308);

- Analyzing said demands by applying an aggregation rule (at least Fig. 13A, Step
  1314);

- If said analysis of said demands indicates that said demands meet criteria of one
  or more of said coalitions, proposing said one or more of said coalitions to said
  user (at least Fig. 13A, Step **1316**);

- Permitting said user to assign said demands to said one or more of said
  coalitions (at least Fig. 13B, Step **1324**); and

- If said analysis of said demands indicates that said demands do not meet criteria
  of one or more of said coalitions, automatically creating a new coalition to
  accommodate said demands (at least Fig. 13C, Step **1344**).

Examiner takes Official Notice that the manual limitation present in the immediate

application does not act to patentability distinguish the claimed invention. It would have

been obvious to a person of ordinary skill in the art at the time of the invention to permit

the manual limitation in lieu of Walker's automatic limitation, because the manual

limitation is merely a step backwards in the Walker's technology. It has generally been

recognized that merely providing an automatic (manual) means to replace a manual

(automatic) activity which accomplishes the same result is not sufficient to distinguish

over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

Referring to claim 23. Walker in view of Official Notice discloses a process

according to claim 22 as indicated supra. Walker further discloses a process of

grouping demands comprising the steps of:

- Determining if any attributes of said demands are missing (at least Fig. 13B, Step **1318**); and

- If said attributes are missing, acquiring said attributes from another source (at least Fig. 13B).

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Silverman et al., U.S. Patent No. 5,136,501, August 4, 1992; discloses an

anonymous matching system.

Brown, U.S. Patent No. 5,794,219, August 11, 1998; discloses a method of

conducting an on-line auction with bid pooling.

Shkedy, U.S. Patent No. 6,260,024, July 10, 2001; discloses a method and

apparatus for facilitating buyer-driven purchase orders on a commercial network

system.

Any inquiry concerning this communication should be directed to Matthew Gart

whose telephone number is 703-305-5355. This examiner can normally be reached

Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone

numbers for the organization where this application or proceeding is assigned are 703-

746-7239 for regular communications and 703-746-7238 for After Final

communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is 703-305-

3900.

MSG

December 3, 2002

WYNN W. COGGINS
SUPERVISORY PATENT EXAMINER
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